

Title	Minimum Statewide Criteria for Eligibility to Attend Traffic Violator School (amend Cal. Rules of Court, rule 851)
Summary	The proposed amendments to rule 851 make changes that will further define the minimum statewide criteria for eligibility to attend traffic violator school and clarify existing provisions in the rule.
Source	Traffic Advisory Committee
Staff	Courtney Tucker, Court Services Analyst (415) 865-7611
Discussion	<p>Rule 851 of the California Rules of Court sets forth statewide criteria for eligibility to attend traffic violator school as pretrial diversion under Vehicle Code sections 41501 and 42005. The Judicial Council adopted rule 851, effective January 1, 1997, after conducting a study and reporting to the Legislature on minimum eligibility criteria as required by Vehicle Code section 42007(e). The rule was adopted to ensure that certain offenses were uniformly treated as either eligible or ineligible for attendance of traffic violator school as pretrial diversion.</p> <p>The Traffic Advisory Committee is concerned that there is presently no uniform policy on eligibility of speeding offenses for traffic violator school as pretrial diversion. Excessive speeding off 100 miles per hour on a highway is typically deemed ineligible, but excessive speeding of 60 miles per hour on a 25 mile per hour road is typically deemed eligible. This practice ignores the serious safety risks posed by excessive speeding on all roadways. The committee proposes designating speeding violations of 25 miles per hour or more over the speed limit as ineligible for pretrial diversion through the court clerk in order to prevent serious speeding violations from being routinely dismissed for attendance of traffic violator school.</p> <p>Additional amendments to rule 851 are proposed to clarify the scope and intent of the rule. Specifically, the proposed changes to rule 851 include the following:</p> <ol style="list-style-type: none"> <li>1. The title and subdivision (a) would be amended to specify that the rule establishes minimum criteria for clerks to accept traffic violator school attendance as pretrial diversion and does not provide an exhaustive listing of all possible eligible or ineligible offenses.</li> <li>2. Subdivision (c)(1) would be amended to clarify that commercial vehicle violations that are assessed one and one-half points under Vehicle Code section 12810.5(b)(2) are eligible for pretrial diversion.</li> <li>3. Subdivision (c)(7) would be added to designate speeding violations of more</li> </ol>

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than 25 miles over a speed limit as ineligible for attendance of traffic violator school as pretrial diversion.

4. Subdivision (d) would be amended to clarify that the rule does not prohibit judicial officers from exercising discretion in ordering traffic violator school attendance for any purposes permitted by law.

Attachment

Rule 851 of the California Rules of Court would be amended, effective January 1, 2003, to read:

**Rule 851. Minimum Eligibility criteria for attending traffic violator school**

- (a) **[Purpose]** The purpose of this rule is to establish uniform statewide minimum eligibility criteria for ~~eligibility to attend~~ a court clerk to accept traffic violator school attendance as pretrial diversion under Vehicle Code sections 41501(b) and 42005.
- (b) **[Eligible offenses]** Except as provided in subdivision (c), a defendant with a valid driver's license ~~shall be~~ is eligible to attend traffic violator school as pretrial diversion for any infraction under divisions 11 and 12 (rules of the road and equipment violations) of the Vehicle Code if the violation is reportable to the Department of Motor Vehicles.
- (c) **[Ineligible offenses]** A defendant charged with any of the following infractions ~~shall~~ is not be eligible to attend traffic violator school as pretrial diversion:
- (1) A violation that carries a negligent operator point count of more than one point under Vehicle Code section 12810 or more than one and one-half points under Vehicle Code section 12810.5(b)(2);
  - (2)–(5) \*\*\*
  - (6) A violation on which the defendant has failed to appear under Penal Code section 1214.1 unless the civil monetary assessment has been paid;:
  - (7) A speeding violation where the speed alleged is more than 25 miles over a speed limit as set forth in Chapter 7 (commencing with section 22348) of Division 11 of the Vehicle Code.
- (d) **[~~Court's Judicial discretionary use~~]** Nothing in this rule ~~shall~~ prohibits ~~the court~~ a judicial officer in ~~its~~ his or her discretion from ~~using~~ ordering attendance at a traffic violator school in an individual case for diversion under Vehicle Code sections 41501(a), 41501(b), or 42005; sentencing; or any other purposes permitted by law.